

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

James Arnett,)	No. CV-12-0311-TUC-DCB-DTF
)	
Plaintiff,)	ORDER
)	
vs.)	
)	
Benjamin Snow Howard, et al.,)	
)	
Defendants.)	
)	

Pending before the Court are Plaintiff's Motion for Leave to Amend and Motion for Leave to File Prima Facie Evidence on Disc. (Docs. 23, 24.) In addition to opposing the motions, Defendants filed a motion to strike Plaintiff's motion to file evidence on disc. (Docs. 27, 28.)

Plaintiff submitted his request for leave to amend his complaint on October 15, 2012. (Doc. 23.) This was filed shortly after Defendants' September 26, 2012 motion to dismiss based on Federal Rule of Civil Procedure 12(b). (Doc. 18.) Pursuant to Federal Rule of Civil Procedure 15(a), a party may amend a pleading once as a matter of course within 21 days after service of a motion under Rule 12(b). Because Plaintiff requested leave to amend less than 21 days from the service of Defendants' motion and Plaintiff was entitled to amend without permission, the Court will grant his request to amend.

Plaintiff seeks to include as an exhibit to his amended complaint, a DVD of several audio and video materials referred to in his pleading. Defendants seek to strike this request arguing that the filing of such materials is not authorized. Nothing in the rules prohibits a party from attaching exhibits to his pleading. The Court will grant Plaintiff's request to

1 submit exhibit materials by way of DVD and will deny Defendants' request to strike that
2 request. Plaintiff shall not incorporate the DVD materials as allegations within his pleading
3 but may cite them as exhibits to the allegations he makes in his pleading. Plaintiff must
4 submit to the Court two copies of the DVD containing the exhibits to his amended complaint,
5 a copy for the Court file and one for the judge. Additionally, he must include a copy when
6 serving the amended complaint on Defendants' counsel.

7 Accordingly,

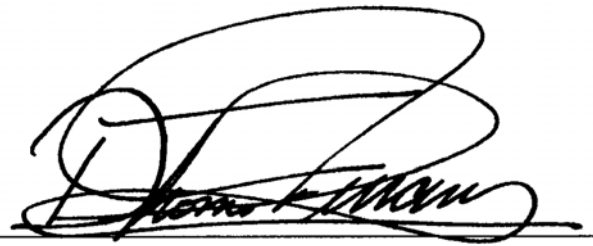
8 **IT IS ORDERED** that Plaintiff's Motion for Leave to Amend (Doc. 23) is
9 **GRANTED**. Plaintiff shall file his amended complaint on or before **January 18, 2013**.

10 **IT IS FURTHER ORDERED** that Plaintiff's Motion to File Evidence on Disc (Doc.
11 24) is **GRANTED**. Plaintiff may file exhibits to his amended pleading on a DVD, with a
12 copy for the Court, the judge and Defendants.

13 **IT IS FURTHER ORDERED** that Defendants' Motion to Strike motion to file
14 evidence on disc (Doc. 28) is **DENIED**.

15 DATED this 19th day of December, 2012.

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A handwritten signature in black ink, appearing to read 'D. Thomas Ferraro', is written over a horizontal line.

D. Thomas Ferraro
United States Magistrate Judge